

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re

Lehman Brothers Holdings Inc., et al.

Debtors.

Case No. 08-13555 (JMP)
Chapter 11

(Jointly Administered)

**DECLARATION OF EVAN SIMON IN SUPPORT OF
THE MOTION FOR AN ORDER PROVIDING
RELIEF FROM THE AUTOMATIC STAY IN ORDER TO
EFFECT SETOFF PURSUANT TO 11 U.S.C. § 553**

I, Evan Simon, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

1. I am the Director of Tax Accounting of New York Institute of Finance, Inc. (“NYIF”) and, as such, I am fully familiar with the facts and circumstances stated herein.

2. I submit this declaration in support of NYIF’s Motion for Relief from the Automatic Stay in Order to Effect Setoff Pursuant to 11 U.S.C. § 553 (the “Motion”) dated September 4, 2009.

3. On September 15, 2008 (“Petition Date”), Lehman Brothers Holdings Inc. (“Debtor”) filed a petition for relief under Chapter 11 of the Bankruptcy Code, initiating the above-captioned case.

4. NYIF is a provider of corporate education and training.

5. The Debtor incurred registration fees for training courses offered by NYIF on July 7, 2008 and August 12, 2008 in the aggregate amount of \$3,023 (“Prepetition

Purchases”). Copies of the Invoices evidencing the Prepetition Purchases are attached as

Exhibit A.

6. As of the Petition Date, the Debtor owed, and continues to owe, NYIF \$3,023 for the Prepetition Purchases (“Lehman Debt”).

7. On April 28, 2006, Pearson Education, Inc. (“Pearson”), on behalf of its subsidiary NYIF, forwarded a check in the amount of \$1, 500 (“NYIF Debt”) to the Debtor in order to refund an erroneous payment previously made by the Debtor to NYIF (“Refund Check”). Copies of the check statements evidencing the Refund Check are attached as

Exhibit B.

8. As of August 27, 2009, the Debtor has not presented the Refund Check for payment and thus the NYIF Debt remains outstanding.

9. Pearson has placed an “administrative hold” on the Refund Check pending the outcome of this motion to the Court to lift the automatic stay to permit NYIF to offset the NYIF Debt against the Lehman Debt.

Dated: September 4, 2009

/s/ Evan Simon
Evan Simon

EXHIBIT A

Established 1921

Tel: +1 212 641 6616
Fax: +1 212 641 2598

Invoice Number CRS017676	Invoice Date July 7, 2008	Amount Due \$1,048.00	Date Due ON RECEIPT
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Date Due

ON RECEIPT

**Lehman Brothers
Attn: Accounts Payable
Accounts Payable Department
Image Processing Systems
P.O. Box 2339
Secaucus, NJ 07096**

[illegible]

Fax wire transfer information to: 212-641-2598
Please include date, amount, invoice #, company, and contact phone

NEW YORK INSTITUTE OF FINANCE

Founded 1922

1330 Avenue of the Americas
New York, NY 10019

Tel: +1 212 641 6616
Fax: +1 212 641 2598

Enrollment details for Venugopala Rao

INVOICE

Enrollment ID: 17097
Status: Registered Delegate
Session ID: CRED2053090808
Session Name: Credit Derivatives: Intermediate (Evening)
Start Date: Monday, September 08, 2008
Venue: New York Institute of Finance Headquarters
1330 Avenue of Americas
New York, NY 10019

Description	Amount
Credit Derivatives: Intermediate (Evening): PO#68723	\$1,775.00
Payment - LOC LOC01242	(\$326.00)
Payment - LOC LOC01229	(\$401.00)
Balance:	\$1,048.00

NEW YORK INSTITUTE OF FINANCE

Established 1922

1330 Avenue of the Americas
New York, NY 10019

Tel: +1 212 641 6616
Fax: +1 212 641 2598

INVOICE

Invoice Number CRS018097	Invoice Date August 12, 2008	Amount Due \$1,975.00	Date Due ON RECEIPT
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Bill To
Lehman Brothers Attn: Accounts Payable Accounts Payable Department Image Processing Systems P.O. Box 2339 Secaucus, NJ 07096

Enroll ID	Description	Amount
17496	Rosario Edgar - Registered Delegate for (DERV2010082608) Derivative Mathematics (Evening)	\$1,975.00
		Total \$1,975.00
		Payments \$0.00
		Balance \$1,975.00

Remit to New York Institute of Finance c/o Bank of America, N.A. 12562 Collection Center Drive Chicago, IL 60693	Wire to Please call 212-641-6616 or your salesperson for wire instructions if needed. For all wires and ACH transfers under \$1,000 please add \$15 administration fee. Fax wire transfer information to: 212-641-2598 Please include date, amount, invoice #, company, and contact phone
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NEW YORK INSTITUTE OF FINANCE

Founded 1922

1330 Avenue of the Americas
New York, NY 10019

Tel: +1 212 641 6616
Fax: +1 212 641 2598

Enrollment details for Rosario Edgar

INVOICE

Enrollment ID: 17496
Status: Registered Delegate
Session ID: DERV2010082608
Session Name: Derivative Mathematics (Evening)
Start Date: Tuesday, August 26, 2008
Venue: New York Institute of Finance Headquarters
1330 Avenue of Americas
New York, NY 10019

Description	Amount
Derivative Mathematics (Evening): PO# 71182	\$1,975.00
Balance:	\$1,975.00

EXHIBIT B

1000087789

T

C

PEARSON

HOT

ORIGINAL INK
SIGNATURES

APR 25 2006

CHECK REQUISITION

NO 00809327

FORWARD TO ACCOUNTS PAYABLE

TO BE USED ONLY WHEN
NO INVOICE IS AVAILABLE

DATE:

APRIL 18, 2006

MAKE CHECK PAYABLE TO (No Abbreviations, Please Print):

LEHMAN BROTHERS

ADDRESS:

MAVIS QUINE - ACCOUNTS PAYABLE

S.S.# OR FED. I.D.#:

70 HUDSON STREET - 10 FLOOR

DUE DATE (NO ASAP):

JERSEY CITY, NJ 07302-3988

APRIL 29, 2006

CHECK CONTROL INSTRUCTIONS:

- ☒ INCLUDE "REASON FOR PAYMENT" MESSAGE BELOW ON THE CHECK STUB FOR PAYEE USE
(UP TO 51 CHARACTERS WITH SPACES)

PAYMENT MADE TO NYIF IN ERROR

- ☐ ATTACHED ENCLOSURE TO BE MAILED WITH CHECK

- ☐ OVERNIGHT - DELIVERY SERVICE CHARGE # (Required):

- ☐ OTHER:

A/P VENDOR MAINTENANCE

ADD # add to file

CHECKS WILL GENERALLY NOT BE RETURNED TO REQUISITIONER

EXPLANATION OF PAYMENT FOR INTERNAL USE (Attach Supporting Documents):

Date

Prep

Filed

4/26/06

muc

rip

To return funds Rec'd - Paid to NYIF in error

APPROVALS / DATE:

The person approving the payment and the one acknowledging receipt of goods / services must be separate individuals.

APPROVAL

Cornie Chin

4/12/06

APPROVAL

Robert Spacino On Days

4/19/06

GOODS / SERVICES RECEIVED

DATE

ACCOUNTS PAYABLE USE ONLY

Account Payable Audit Stamp

VENDOR

APPROVALS

Yes

No

YES N/A

PAY

SAP

PP

Original Signature

Original Signature

Original Signature

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Original Signature

Original Signature

Completed

N/A

Prior Payment Search

Prior Payment Search

Prior Payment Search

Prior Payment Search

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TOTAL AMOUNT OF CHECK

\$ 1500-

REQUESTED BY:

CLAUDIA SUHR

PHONE NUMBER:

212-641-6139

LOCATION:

1330 AVE OF AMERICAS

Message

Page 1 of 3

Suhr, Claudia

From: Chin, Connie
Sent: Wednesday, April 12, 2006 2:52 PM
To: Suhr, Claudia
Subject: FW: Lehman Brothers check \$ 1500.00

Claudia -

Please fill out a check request for \$1,500.00 to refund Lehman brothers for a payment made to us in error.

**Thanks
Connie**

From: Austin, Charlotte
Sent: Monday, April 03, 2006 4:10 PM
To: Chin, Connie
Subject: RE: Lehman Brothers check \$ 1500.00

The check should go to:
Lehman Brothers
Mavis Quine
Accounts Payable
70 Hudson Street 10th floor
Jersey City, NJ 07302-3988

Thanks,
Charlotte

-----Original Message-----

From: Chin, Connie [mailto:connie.chin@ftknowledge.com]
Sent: Friday, March 31, 2006 2:52 PM
To: Deshpande, Shaila; Austin, Charlotte
Subject: RE: Lehman Brothers check \$ 1500.00

Shaila - I will make an adjustment.

Charlotte - I will have a refund check issue from here. Who should I send the check to? Can you give me contact person and address.

Thanks
Connie

From: Deshpande, Shaila
Sent: Thursday, March 30, 2006 11:52 AM
To: Chin, Connie
Subject: RE: Lehman Brothers check \$ 1500.00

4/13/2006

Message

Page 2 of 3

Hi Connie,
According to Charlotte Austin's e-mail, this payment is for another vendor. Please let me know how to apply this check.
Thank you
Shaila

From: Deshpande, Shaila
Sent: Wednesday, March 22, 2006 1:26 PM
To: Chin, Connie
Cc: Hermawati, Rosalyna; Urbanski, Lisa; Garrido, Rosanne; Montera, John; Sullivan, Julia
Subject: RE: Support for journal entries in 112095 - February '06

Hi Connie,
I have a check # 1865886 for \$ 1500.00 still open for Lehman Brothers.
I didn't receive Invoice number. Can you please give me Invoice number?-details s 6036-986 desc - 0000002702.No Inv ?
I am still looking for diff \$ 100.00.
Thank you
Shaila

-----Original Message-----

From: Chin, Connie [mailto:connie.chin@ftknowledge.com]
Sent: Tuesday, March 21, 2006 3:49 PM
To: Deshpande, Shaila
Cc: Hermawati, Rosalyna; Urbanski, Lisa; Garrido, Rosanne; Montera, John; Sullivan, Julia
Subject: RE: Support for journal entries in 112095 - February '06

Hi Shaila,

The g/l cash account-BOA shows a credit balance of \$1,600.

Attached is our February bank statement - was there a wire/deposit not recorded in Feb?

Let me know

Thanks
Connie

From: Hermawati, Rosalyna [mailto:Rosalyna.Hermawati@Pearson.com]
Sent: Tuesday, March 21, 2006 3:28 PM
To: Chin, Connie
Cc: Urbanski, Lisa; Garrido, Rosanne; Montera, John; Sullivan, Julia
Subject: RE: Support for journal entries in 112095 - February '06

Hi Connie,
The February's ending balance for account 112095 in SAP is a credit of \$1,600.00 while the ending balance on the bank statement is \$0.00. Could you please tell us what caused this difference?

Thanks,
Rosalyna

Check Edit Goto Extras Environment System Help

Display Check Information

Check recipient Check issuer... Accompanying docs Payment document

Paying company code 05 Payment document no. 56066188

Bank details			
House bank	SAP6	Bank Key	061112788
Account ID	APDIS	Bank Account	3299999096
Bank name	Bank of America NA		
City	Atlanta		

Check information			
Check number	795901	Currency	USD
Payment date	04/28/2006	Amount paid	1,500.00
Check encashment		Cash discount amount	0.00

Check recipient	
Name	LEHMAN BROTHERS
City	JERSEY CITY
Payee's country	US
Regional code	NJ

NO
ENCASHMENT
AS OF
8/27/09